

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2000-123
and 2001-451

June 28, 2002

CENTRAL MAINE POWER COMPANY
Petition to Establish Power Purchase Agreement
Rate for Sales of Energy and Capacity by Warren's
Somerset Mill to Central Maine Power Company

STIPULATION

The undersigned parties to the above-captioned proceeding ("Parties") hereby enter into this Stipulation in order to settle all remaining issues bearing on the above-captioned proceeding, establish certainty about the rights and responsibilities of contracting parties, ratepayers and shareholders, take advantage of present opportunities to resolve this case on a reasonable basis and thereby avoid further litigation.

THE PARTIES TO THE STIPULATION STIPULATE AND AGREE THAT:

BACKGROUND AND PROCEDURAL HISTORY

1. S.D. Warren Company ("Warren") owns and operates certain cogeneration facilities (the "Facility") located at its Somerset Mill. Warren sells the Facility's entire generation, less station service, to Central Maine Power Company ("CMP") pursuant to a Power Purchase Agreement (the "PPA") dated December 1, 1982, as amended on April 11, 1983, and as further amended on July 9, 1990. Warren also purchases the Somerset Mill's entire electrical energy requirements from the CMP system. The term of the PPA extends through October 31, 2012.

2. On February 9, 2000, Warren filed a petition (the "Petition") with the Maine Public Utilities Commission (the "Commission") in Docket No. 2000-123 requesting that the Commission establish the so-called "Rate B" for sales of energy and capacity from Warren's Somerset Mill to CMP for the one-

year period beginning March 1, 2000, pursuant to the PPA. Rate B is the principal rate that CMP pays Warren for energy and capacity under the PPA. Under the PPA, Rate B is a “wash rate,” i.e., it is calculated each month to be:

“a rate per KWH equal to the average cost to [S.D. Warren] per KWH of its purchases from [CMP] during the same time period as [S.D. Warren] was purchasing from [CMP], including, but not limited to, all energy charges, demand charges, customer charges, taxes, surcharges, adjustments or penalties, under the applicable tariffs of the ... Commission and all other applicable laws and regulations.”

With the advent of electric industry restructuring, beginning March 1, 2000 CMP is supplying the Somerset Mill with T&D service, but not with generation service. Warren purchases generation service for the Somerset Mill from the market. Accordingly, Rate B cannot be calculated based solely upon CMP’s sales to Warren.

3. Sections 5 and 6 of the 1997 Restructuring Act deal with the implementation of qualifying facility contracts, including contracts with rates based upon bundled retail rates. In April 2000, by P.L. 2000, Ch.730, the Legislature amended Section 6 of the Restructuring Act. Amended Section 6 provides:

Sec. 6. Qualifying Facility Contracts Tied to Retail Tariffs. Certain contracts for the sale of energy, or energy and capacity, by qualifying facilities contain terms that establish or adjust the purchase rate based upon the retail tariff rate or changes to that retail tariff rate paid by the qualifying facility to the electric utility for its purchases of electricity or upon reference to a particular retail tariff rate or changes in such a retail tariff rate. The Legislature finds that after the date of retail access as provided for in this Act, a question may arise as to whether there is a retail tariff that provides for a comparable standard for sale of combined generation and transmission or distribution services. Following the implementation of retail access as provided for in this Act, the Public Utilities Commission shall, at the request of a qualifying facility or a utility that is a party to such a contract, establish a contract rate as follows.

1. For contracts that involve arrangements for the simultaneous purchase and sale of electricity:

A. For years in which the utility has sold the output of the qualifying facility contract pursuant to the Maine Revised Statutes, Title 35-A, section 3204, subsection 4, and the qualifying facility has, as of the effective date of this paragraph, contracted for retail power supply, the commission shall establish or adjust the contract rate based on the annual change, determined on a monthly basis, in the average of the total price paid for electric services by all retail customers in the utility’s service territory taking service at the same voltage level as the qualifying facility. For purposes of this paragraph, the term “annual charge determined on a monthly basis” means the charge calculated by comparing the applicable figure for the month for which a contract rate is to be established with the applicable figure for the same month in the prior year;

B. For years in which the utility has sold the output of the qualifying facility contract, pursuant to Title 35-A, section 3204, subsection 4 and the qualifying facility has not, as of the effective date of this paragraph, contracted for retail power supply, the commission shall establish the contract rate as a rate per kilowatt hour for each month equal to the sum of the average per-kilowatt hour cost to the qualifying facility of its purchases during the same month of transmission and distribution service under all applicable tariffs and of generation service. The qualifying facility shall obtain its generation service through a process that is approved by the commission; and

C. Notwithstanding any other provisions of law, for years in which the utility has not sold the output of the qualifying facility contract pursuant to Title 35-A, section 3204, subsection 4, the commission may direct the utility to sell the output of the qualifying facility back to the qualifying facility or otherwise act to place the qualifying facility and utility as close as possible to their positions with respect to the contract prior to the implementation of retail access. In determining the positions of the qualifying facility and the utility with respect to the contract prior to the implementation of retail access, the commission shall, at a minimum, consider and make specific findings with regard to:

- (1) Benefits the qualifying facility received under the contract, including any ability to avoid the purchase of standby service and the cost of balancing short-term differences in power generation and use; and
- (2) Benefits the utility received under the contract.

To the extent the commission is unable to restore both the qualifying facility and the utility to their positions with respect to the contract prior to the implementation of retail access, the commission shall act to equitably apportion the resulting costs and benefits between the qualifying facility and the utility. The commission shall issue a decision under the paragraph within 6 months of a filing by a utility or a qualifying facility for a determination pursuant to this paragraph.

4. Amended Section 6(1)(A) governs establishment of the Somerset PPA rate for the first year after restructuring takes effect in Maine (“Year One” - March 1, 2000 through February 28, 2001). To date, CMP has paid Warren for Year One an interim rate based upon a “wash” (the sum of the average per kWh cost of T&D service to the Somerset Mill plus the generation supply rate of 4.625 cents/kWh). Under the interim agreement between Warren and CMP, once the final Year One rate is established by the Commission, CMP will pay Warren the additional amounts determined by the Commission, plus interest at the prime rate from the date each monthly payment under the PPA was due. While the Commission has not yet finally established the amount due Warren for Year One, the parties estimates that this amount with interest will be approximately \$2 million.

5. Section 6(1)(B) addresses the calculation of Rate B for Year Two. It requires that Rate B be set at the “wash” rate and that Warren purchase the Somerset Mill’s generation service through a

process approved by the Commission. The Commission approved the selection of the supplier for the Somerset Mill's generation in Docket No. 2000-643, and CMP paid the "wash rate" under the PPA for Year Two.

6. On July 6, 2001, Warren filed a Petition with the Commission in Docket No. 2001-451 to establish Rate B for Years 3 through 12 of the PPA. On April 3, 2002, Warren filed an Amended Petition in Docket No. 2001-451.

7. Section 6(1)(C) addresses the calculation of Rate B for Year Three. For Year Three, the Commission has not yet established the PPA rate. However, in order to put a supply arrangement in place, and in order to minimize the costs associated with implementing the PPA, CMP and Warren, with the assistance of Staff, developed a joint process for the purchase of the Somerset Mill's generation supply and the resale by CMP of the power the Somerset Mill generates. By this bid process, bidders were given the opportunity to bid simultaneously to purchase the Mill's gross output and supply its gross load or to purchase the Mill's net output and supply its net load. The Commission approved the bid process by Order dated November 6, 2001 in Docket No. 2001- 451. Upon the conclusion of the bidding, CMP, Warren and the Staff found that the least costly proposal was from a competitive electricity provider (the "Provider") who bid for a net supply and net purchase. In order to effect that arrangement, the parties negotiated temporary amendments to the PPA and the Electricity Supply Agreement to provide that during the term of Year Three S.D. Warren would sell only its net output to CMP and CMP would supply the Somerset Mill with T&D Service on the Mill's net imports of power. The Commission approved the selected Provider's bids and the contract documents implementing the bids by Order dated February 14, 2002. The joint bidding process, and the contract amendments negotiated by the parties, reduced the "spread" (the difference between the cost of

supplying the Somerset Mill's generation requirements for Year 3 and the amount of CMP is paid for the resale of the Somerset Mill's generation) to approximately \$1.8 million. CMP is paying S.D. Warren a wash rate for Year 3 on an interim basis pending a final Commission decision on the calculation of Rate B.

8. In March 2002, Warren requested that the Provider submit a bid to purchase the Somerset Mill's net output and to supply its net load for the remainder of the PPA term, March 1, 2003 through October 31, 2012. The Provider's bid and Warren's analysis of that bid were submitted to the Commission with Warren's April 3, 2002 Amended Petition. In the Amended Petition, Warren proposed that the Commission approve the Provider's bid as the basis for establishing the "Rate B" purchase price under the PPA for the remaining 9 years of the PPA, namely the period beginning March 1, 2003 through October 31, 2012. The PPA rate for the Years 3-12 would be calculated each month to be the sum of Warren's actual average per kWh power supply costs from the Provider and its actual average per kWh T&D charges from CMP. Warren also proposed that Warren forego the "premium" to which it is entitled for Year One, and to have the Commission apply that premium to reduce the costs of implementing the Somerset PPA for Years 3-12. The "spread" under the Provider's initial bid for Years Four through Twelve of the PPA starts at a low in Year Four of approximately \$2.3 million to a high in Year Eleven of approximately \$2.9 million. Warren and the Provider have negotiated the terms of an Electricity Supply Contract (the "Supply Contract") to govern the Provider's sales of power to serve the Somerset Mill's Net Load during those hours when the Mill is importing power, subject to final pricing and Commission approval of this Stipulation. A confidential copy of the draft Supply Contract is submitted with this Stipulation.

9. On April 23, 2002 the Examiner in this proceeding scheduled a settlement conference in this case for May 1, 2002. On April 26, 2002 Warren requested a one-month delay in the schedule for this case. On June 11 the Examiner scheduled a settlement conference in this proceeding for June 21, 2002.

STIPULATION OVERVIEW

10. The parties to this Stipulation believe that the Provider's bid presents an opportunity to reduce significantly the costs of implementing the Somerset PPA after restructuring in comparison to other bids and other projections of costs, and that the Provider's bid, if accepted, will allow the Commission to place Warren and CMP as close as possible to their positions with respect to the contract prior to the implementation of retail access. The parties believe that there is a substantial risk that with further litigation of this case, and possible litigation in the future Rate B for future years, the benefits of the Provider's bid could be lost or substantially diminished, to the detriment of Warren and CMP's ratepayers. The parties believe that the objectives of Section 5 and Section 6 of the Restructuring Act, and in particular the minimization of stranded costs and the preservation of the rights of CMP, its ratepayers and Warren in the Somerset PPA, can best be realized through this Stipulation.

11. The parties agree that through this Stipulation Warren is making a number of contributions in an effort to minimize the "spread," and the stranded costs associated with the Somerset PPA, to the greatest extent possible. These contributions include the following:

- a. Warren agrees to forego the premium payable to Warren for Year One, which with interest is estimated to be approximately \$2 million. This contribution substantially reduces the "spread" in subsequent years.

- b. Warren agrees to amend permanently the PPA and the Electric Service Agreement to convert both contracts to apply only to net transactions, rather than applying to Somerset's gross generation and gross load. The sole purpose of these amendments is to reduce the "spread" and allow the parties to accept the Provider's bid.
- c. Warren agrees to supply the Provider with a \$5 million letter of credit at Warren's expense, together with a security interest in the revenues Warren receives from CMP under the PPA. In addition, Warren agrees to provide the Provider with its quarterly financial statements. See Supply Contract, section 4(c). These credit enhancements are a condition of the Provider's bid; without them the bid pricing would be higher or unavailable. These credit enhancements are not required under the PPA.
- d. Warren agrees to cap its Net Load at 75 MW, subject to load growth of up to 2 MW per year beginning in 2004, and to cap its Gross Load at 108 MW, subject to load growth of up to 2 MW per year beginning in 2008. See Supply Contract, Section 1(b). There is no such limitation on Warren under the PPA. This provision reduces the economic risk to the Provider and permits more favorable pricing.
- e. Warren agrees to limit its operating flexibility at the Somerset Mill in a manner not required under the terms of the PPA. In particular, Warren agrees that it "shall not reduce its generation below [its] load requirements ... for economic reasons, such as to obtain lower total energy costs, or for any reason other than operational purposes." See Supply Contract, Section 1(c). This means that even when Warren's net generation targets are met for the period, Warren is precluded from choosing to reduce its generation below load

during hours when its cost of power from the Provider is below Warren's cost of producing power. The PPA contains no such restriction.

- f. Warren agrees that if it reduces its operations so as to affect its load for a period in excess of 24 hours, it "must, after the initial 24-hour period, reduce its generation, to the fullest extent possible consistent with maintenance requirements of the [Mill], in an amount commensurate with the reduction of [Warren's] load requirements, until such time as the operations reduction ends." See Supply Contract, Section 1(d). Thus, Warren is agreeing to maintain load and generation in parallel to a much greater extent than is required under the terms of the PPA. This provision greatly reduces the economic risk to the Provider of this nine-year agreement, and thus permits much more favorable pricing. The provision also will reduce the "spread," as it will limit the potential for Warren to make additional sales to CMP.
- g. Warren agrees that if the Somerset Mill "ceases operation for more than six (6) consecutive months, [Provider] shall have the one-time right to terminate" its Supply Contract with Warren. See Supply Contract, Section 2(j). This protects the Provider and ratepayers from the risk that a Somerset Mill closure could result in long-term PPA sales of power without offsetting purchases by Warren, and thus limits the risk that the "spread" could be greater.
- h. Warren agrees that if one of the Mill's turbine generator's "is shut down or derated for more than two consecutive months in excess of the Planned Maintenance Schedule" Warren will pay a \$415/MW increase in the Base Customer Charge for each MW of generation

- lost. See Supply Contract, Attachment B(2). This provision further insulates the Provider from the risk of supplying substantially more Net Load to the Somerset Mill than projected.
- i. Warren agrees to a detailed Planned Maintenance Schedule, with fixed number of maintenance days each year, and an obligation that Warren commit by January 1 each year to the months when scheduled maintenance is to occur, and further to provide 90 days notice of the actual days on which scheduled maintenance is to occur, with substantial customer charge increases for variances. See Supply Contract, Attachment B(2)(c) and B(3). These obligations far exceed the scheduled maintenance obligations under the PPA and permit more favorable pricing, thereby reducing the “spread.”
 - j. Warren agrees to a cap on the Mill’s power purchases at the FRS 2 purchase price; purchases above the FRS 2 Cap will be at a market price. See Supply Contract, Att. B(1). This provision also reduces the economic risk to the Provider of this nine-year agreement, and permits more favorable pricing. In months in which the Somerset Mill is a significant net importer of power, this change increases Warren’s purchase costs, and exposes Warren to the risk of market prices for these additional purchases.
 - k. Warren agrees to monthly and daily scheduling requirements, by which Warren must notify the Provider of its expected Net Load and Net Generation and of changes in its Net Load and Net Generation from scheduled amounts. See Supply Contract, Section 6. Such scheduling is not required in the PPA. This obligation further reduces risk to the Provider and results in more favorable pricing and a reduced “spread.”
 - l. Warren agrees that its charges from CMP for Net T&D service shall be calculated as if the Somerset Mill were taking gross T&D service on its entire Mill load, thereby reducing the

average T&D cost/kWh, which reduces the PPA rate significantly. In months in which the Somerset Mill is a net exporter of power, this change reduces payments to Warren significantly, thereby significantly reducing the “spread.”

- m. Warren agrees that the significant monthly demand charges under its agreement with the Provider will not be included in the calculation of its average monthly generation supply rate for purposes of calculating the PPA rate, as the PPA requires. Under the PPA, Rate B is calculated to include all fixed and variable charges for bundled electric service, including customer and demand charges. Instead, CMP will separately reimburse Warren for these demand charges. This change in the method of calculating Rate B significantly reduces Rate B and reduces the payments CMP would make to Warren in those months in which Warren is a net exporter of power. This change in method results in a very significant reduction in the “spread.”

12. As a consequence of the foregoing, and as a result of negotiations, the parties to this Stipulation have agreed to a methodology for setting Rate B under the PPA through October 31, 2012.

13. Methodology for Setting Rate B. The parties agree that for the period March 1, 2000 through February 28, 2002 and for the period March 1, 2002 through October 31, 2012, Rate B under the PPA shall be set in accordance with the following provisions:

- (a) For Year One (March 1, 2000 through February 28, 2001), Rate B shall be calculated each month to be the sum of: 1) Warren’s actual average per kWh cost of transmission and distribution services for the month (total charges for T&D service in the month, including all charges under all applicable rates and tariffs, divided by total kWh consumed in the month), plus 2) the actual rate Warren paid its supplier for generation

(i.e., the Standard Offer through March 21, 2000, and the rate pursuant to the Somerset Mill's Competitive Electricity Provider contract for the remainder of the Year One period).

- (b)** For Years Three through Twelve (March 1, 2002 through October 31, 2012), Rate B shall again be calculated each month to be the sum of: 1) Warren's actual average per kWh cost of transmission and distribution services for the month (total charges for T&D service in the month, including all charges under all applicable rates and tariffs, divided by total kWh consumed in the month), plus 2) the actual average per kWh rate Warren pays its supplier for generation service during that same month (total charges for generation service in the month, excluding all fixed demand or customer charges, divided by total kWh consumed in the month). The rate to be paid by Warren to CMP for electric delivery service shall equal the average rate per kWh that Warren would have paid under CMP's otherwise applicable electric delivery rate schedule (currently LGS-T-TOU) if Warren had taken service on a gross basis rather than a net basis (i.e., as if Warren purchased electric delivery service for the gross load of the Somerset Mill and sold the entire output of the Facility, less station service, to CMP under the PPA). In addition, CMP will reimburse Warren each month for any Customer Charge that Warren pays to the Provider. In any month where Warren makes no purchases of Net Load from the Provider under the Supply Contract, CMP shall pay Warren for all deliveries under the PPA during the month that are subject to Rate B, a rate equal to the sum of: 1) the average rate per kWh that Warren would have paid under CMP's otherwise applicable Electric Delivery Rate Schedule (currently CMP's LGS-T-TOU) if

Warren had taken service on a gross basis rather than a net basis (i.e., as if the Fourth Amendment to the PPA was not in effect), including all charges under all applicable rates and tariffs, plus 2) the weighted average per kWh energy charge that Warren would have paid the Provider for generation service for that month, using Warren's monthly average generation service purchases from its supplier since March 1, 2003 to weight the applicable month's on-peak and off-peak energy charges. In addition, CMP will reimburse Warren for any Customer Charge that Warren pays to the Provider.

(c) The parties further agree to the following provisions concerning the calculation of Rate B for Years Three through Twelve:

- (i) Pursuant to Section 1(b) and Attachment B(1) of the Supply Contract, if the Somerset Mill's Net Load exceeds a specified Maximum Net Load, the energy charge to the Provider is the "sum of the Market Price plus \$3.00 for each MWH of Net Load delivered in such hour in excess of the Maximum Net Load." The parties agree that Rate B shall not include any payments by Warren to the Provider attributable to this \$3.00 per MWH surcharge.
- (ii) Pursuant to Section 1(b) of the Supply Contract, if the Somerset Mill's Gross Load exceeds a specified Maximum Gross Load, Warren shall reimburse the Provider for any actual, direct costs incurred by the Provider, including any costs imposed by ISO-NE or any successor entity, resulting from the Somerset Mill's Gross Load exceeding the Maximum Gross Load. The parties agree that Rate B shall not include any reimbursement by Warren to the Provider for costs incurred by the Provider pursuant to this provision of the Supply Contract.

- (iii) Pursuant to Section 1(c) of the Supply Contract, if Warren reduces the Somerset Facility's generation below the Mill's load requirements for reasons other than operational purposes at times when the Market Price exceeds the applicable Supply Contract energy charge, then the energy charge paid by Warren during the period of such generation reduction shall be the Market Price. The parties agree that in the event that Warren pays the Provider the Market Price for any hours due to the application of Section 1(c) of the Supply Contract, Rate B shall be calculated as if during such period Warren had paid under the Supply Contract the FRS 1 energy charge for all MWh of Net Load up to and including the FRS 1 Cap and the FRS 2 energy charge for all MWh of Net Load above the FRS 1 Cap, as if the FRS 2 Cap did not exist.
- (iv) Warren agrees that the provisions of this Section 13(c)(iv) shall run to the benefit of CMP. If any reduction of the Somerset Mill's operations results in a reduction of the Mill's load requirements in the amount of at least 3 MWh per hour, measured from the immediately preceding hour, which reduction continues for 24 consecutive hours, or a reduction of the Mill's load requirements for any 24 hour period by an average of at least 3 MWh per hour compared to the prior 24 hour period, Warren must, after the initial 24-hour base period, reduce the Facility's generation, to the fullest extent possible consistent with maintenance requirements of the Mill, in an amount commensurate with the reduction of the Mill's load requirements, until such time as the operations reduction ends. The Somerset Facility shall not be required to reduce its Net

Generation below 8 MWh per hour by operation of this provision. Such a reduction in the Somerset Facility's generation shall not be required, however, until such time as Warren's Net Generation for the calendar quarter has exceeded the Minimum Net Generation Requirements set forth in Section 4.1.2 of the Entitlement Agreement between CMP and the Provider (the "Entitlement Agreement"), unless CMP directs Warren to reduce its generation in accordance with this provision notwithstanding that the Minimum Generation Requirements have not been met for the calendar quarter. In the event that Warren fails to comply with this provision, the parties agree that, for the portion of Warren's Net Generation delivered to CMP in violation of this provision, Rate B shall be calculated as if the energy charge Warren pays the Provider for generation service during the period of such non-compliance is equal to the energy charge that the Provider pays CMP under the Entitlement Agreement for the same period of time. In the event Warren and CMP disagree as to whether Warren has complied with this provision, the dispute shall be resolved through binding arbitration conducted in accordance with the arbitration provisions set forth in Section 13(m) of the Supply Contract.

- (v) The parties agree that Rate B shall not include any payments made by Warren to the Provider as a result of a Mill Expansion as described in Section 1(e) of the Supply contract.

- (vi) The parties agree that the PPA shall not apply to any sales of incremental Net Generation by Warren to the Provider as a result of a Generation Expansion pursuant to Section 1(f) of the Supply Contract.
- (vii) The parties agree that in the event Warren pays the Provider an Early Termination Payment pursuant to Section 2(e) of the Supply Contract, said Early Termination Payment shall not be included in the calculation of Rate B. The parties further agree that in the event the Provider pays Warren an Early Termination Payment, Warren is entitled to retain said payment, and Warren's receipt of such payment shall not affect the calculation of Rate B.
- (viii) The parties agree that Rate B shall not include interest or costs or expenses of collection paid by Warren to the Provider pursuant to Section 4(a) of the Supply Contract as a result Warren's failure to pay the Provider for Net Load on a timely basis.
- (ix) The parties agree that Rate B shall not include any payments made by Warren to the Provider pursuant to Section 6(b) of the Supply Contract as reimbursement for costs or penalties incurred by the Provider as a result of Warren's failure to comply with the notice requirements of Section 6(a) of the Supply Contract.
- (x) The parties agree that Rate B shall not include any payments made by Warren to the Provider pursuant to Section 11(b) of the Supply Contract for Warren's failure to receive all or part of the Mill's Net Load.

- (xi) The parties agree that CMP shall not be obligated to reimburse Warren for any increase in the Base Customer Charge paid by Warren to the Provider pursuant to Attachment B(2)(c) of the Supply Contract as a result of Warren's deviation from the Planned Maintenance Schedule set forth in Attachment B(3) of the Supply Contract.
- (xii) The parties agree that if, in any month during the period from Years Four through Year Twelve, (1) the gross amount of Warren's Net Generation, measured in kWh and sold to CMP pursuant to the PPA during the month, exceeds by more than ten percent (10%) the gross amount of Warren's Net Load, measured in kWh and purchased from the Provider during the month, and (2) during any hours of said month any of Warren's Net Load exceeded the FRS 2 Cap as set forth in Attachment B(1) to the Supply Contract, then (3) in such event the PPA rate for the portion of Warren's sales to CMP during said month that exceeded Warren's purchases from the Provider by more than ten percent (10%) shall be calculated as if there were no FRS 2 Cap in the Supply Contract. If during such a month Warren increases its deliveries of Net Generation in response to a dispatch request from ISO-NE or any successor entity, including any request made by the Maine Satellite, the ten percent (10%) cap described above shall be increased by the amount kWh of Net Energy delivered by the Facility in response to the dispatch request, provided, however that Warren agrees that it will not respond to such a dispatch request without CMP's consent.

- (xiii) The parties agree that: 1) in the event Warren's sales of Net Generation exceed the Maximum Net Generation limits set forth in Section 4.1.3 of the Entitlement Agreement, and 2) the Provider pays CMP a rate for such excess generation over the Maximum Net Generation limits that is less than the applicable Entitlement Sales Charge set forth in Section 4.1.1 of the Entitlement Agreement, then in such event (3) CMP shall be entitled to deduct from its PPA payments to Warren an amount equal to the number of kWh of such excess generation times the difference between the applicable Entitlement Sales Charge and the rate paid by the Provider to CMP for such excess generation.
- (xiv) The parties agree that in the event that: 1) the Provider determines that a Change in Law governed by Section 10(d)(ii) or 10(d)(iii) of the Supply Contract has occurred, and 2) Warren and the Provider reach an agreement, in lieu of arbitration or termination, as to appropriate compensation to the Provider, then in such event (3) the agreed compensation to the Provider shall be included in the calculation of Rate B only if CMP agrees - or if CMP does not agree, the Commission determines - that the agreed compensation should be paid in lieu of arbitration or termination. Warren further agrees to notify CMP and the Commission in the event that either Warren or the Provider notifies the other of a Change in Law pursuant to Section 10(d) of the Supply Contract.

- (d) Upon the Commission's approval of this Stipulation, Warren shall enter into the following agreements:

- (i) an Electricity Supply Contract with the “Provider” for Years 4 through 12 to serve the net electrical load of the Somerset Mill at the prices offered by the Provider and pursuant to the terms negotiated by S.D. Warren and the Provider;
 - (ii) a Netting Agreement with the Provider and CMP;
 - (iii) a Fourth Amendment to the Somerset PPA whereby Somerset sells only its net generation to CMP for the duration of the PPA;
 - (iv) a Third Amendment to the Somerset Electric Service Agreement whereby Somerset purchases only its net T&D service from CMP for the duration of the PPA.
- (e) The Commission’s Order approving this Stipulation shall provide that CMP shall promptly enter into the following documents:
 - (i) an Entitlement Sales Agreement with the Provider whereby CMP agrees to resell to the Provider CMP’s Entitlements to energy and capacity that CMP receives through the Somerset PPA;
 - (ii) a Netting Agreement with the Provider and Warren;
 - (iii) a Fourth Amendment to the Somerset PPA whereby Somerset sells only its net generation to CMP for the duration of the PPA; and
 - (iv) a Third Amendment to the Somerset Electric Service Agreement whereby Somerset purchases only its net T&D service from CMP for the duration of the PPA.

- (f) This Stipulation is made expressly contingent upon receipt of a final, binding bid from the Provider that is acceptable to the Commission and the parties to this Stipulation and finalization of the necessary documents, including those listed in paragraphs 13(c) and 13(d) above, to execute the transactions contemplated, which documents shall be in a form acceptable to the Commission and the parties to this Stipulation. In the event that the Electricity Supply Contract, the Entitlement Sales Agreement or the Netting Agreement described in paragraphs 13(c) 13 (d) above are terminated, the parties to this Stipulation agree that the terms of this Stipulation shall govern the calculation of Rate B through the date of termination of the above contracts, but shall thereafter have no further force and effect. In that event, the parties to this Stipulation shall make a good faith and diligent effort to put in place a new, mutually agreeable stipulation and successor agreements for the remaining term of the Somerset PPA. In the event the parties are unable to reach agreement, the PPA rate for Year One and the remaining term of the Somerset PPA shall be determined pursuant to applicable law, provided that any additional sums due Warren for Year One in excess of the “wash” rate described in Paragraph 4 of this Stipulation shall be reduced by the number of years this Stipulation was in effect as a fraction of its intended 9-year term.
- (g) No party to this Stipulation shall undertake any effort to revise or amend Unallocated Section 6 or other statutory provisions in a manner that would have the effect of altering this Stipulation or the calculation of Rate B for the period through October 31, 2012.

14. Access to Information. Warren agrees to provide CMP with responses to requests for information concerning the operation of the Somerset Mill during the remaining term of the PPA as are

reasonably necessary for CMP to monitor Warren's compliance with the terms of this Stipulation. In the event that a dispute arises between Warren and CMP as to the reasonableness of a request for information, or the adequacy of Warren's response to the request, either of the parties may submit the dispute to the Commission for resolution.

15. Prudency. The parties agree that a Commission order accepting this Stipulation constitutes a finding that CMP's conduct in negotiating with Warren has been prudent and is in full compliance with its statutory obligation to minimize the stranded costs associated with implementing the Somerset PPA after restructuring, and that CMP shall therefore be entitled to recover its stranded costs resulting from this approval and implementation of this Stipulation.

16. Legal Effect of this Stipulation. The execution of this Stipulation by any party shall not constitute precedent as to any matter of law or fact nor, except as expressly proved herein, shall it foreclose any of the parties from making any contention or exercising any right, including rights of appeal, in any other Commission proceeding or investigation, or any other trial or action.

The parties intend that this Stipulation be considered by the Commission for adoption as an integrated solution to the issues addressed herein which arose in the above-captioned proceeding and as otherwise presented in this Stipulation. The parties also intend that this Stipulation shall be null and void, and not bind the parties in the above-captioned proceeding in the event the Commission does not adopt this Stipulation without material modification.

17. If not accepted by the Commission in accordance with the provisions hereof, this Stipulation shall not prejudice the positions taken by any party on these issues before the Commission in this proceeding and shall not be admissible evidence therein or in any other proceeding before the Commission.

Respectfully submitted this 28th day of June 2002.

OFFICE OF THE PUBLIC ADVOCATE

By: _____

CENTRAL MAINE POWER COMPANY

By: _____

S.D. WARREN COMPANY

By: _____

INDUSTRIAL ENERGY CONSUMER GROUP

By: _____